

SENATE BILL NO. 67

INTRODUCED BY CROMLEY

A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE FEES FOR ISSUANCE OF A MARRIAGE LICENSE AND FILING OF A DECLARATION OF MARRIAGE WITHOUT SOLEMNIZATION; PROVIDING THAT THE INCREASE IN FEES BE ~~DIVIDED BETWEEN THE STATE GENERAL FUND AND IS FOR THE COUNTY~~ DISTRICT COURT FUND OR COUNTY GENERAL FUND FOR DISTRICT COURT OPERATIONS; AMENDING SECTIONS 3-2-714, 15-1-121, 25-1-201, 40-1-202, 40-1-311, AND 50-15-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-2-714, MCA, is amended to read:

"3-2-714. Civil legal assistance for indigent victims of domestic violence account. (1) There is a civil legal assistance for indigent victims of domestic violence account in the state special revenue fund. There must be paid into this account the filing fees paid under 25-1-201(3)(a) and ~~(6)~~ (5). The money in the account must be used solely for the purpose of providing legal representation for indigent victims in civil matters in domestic violence cases and for alternative dispute resolution initiatives in family law cases. Money in the account may not be used for class action lawsuits.

(2) The supreme court administrator shall establish procedures for the distribution and accountability of money in the account. The supreme court administrator may designate nonprofit organizations that ordinarily render or finance legal services to indigent persons in civil matters in domestic violence cases to receive or administer the distribution of the funds."

Section 2. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter

- 1 584, Laws of 1999;
- 2 (b) vehicle and boat taxes and fees pursuant to:
- 3 (i) Title 23, chapter 2, part 5;
- 4 (ii) Title 23, chapter 2, part 6;
- 5 (iii) Title 23, chapter 2, part 8;
- 6 (iv) 61-3-317;
- 7 (v) 61-3-321;
- 8 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment
- 9 of 61-3-509 in 2001;
- 10 (vii) Title 61, chapter 3, part 7;
- 11 (viii) 5% of the fees collected under 61-10-122;
- 12 (ix) 61-10-130;
- 13 (x) 61-10-148; and
- 14 (xi) 67-3-205;
- 15 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- 16 (d) district court fees pursuant to:
- 17 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
- 18 (ii) 25-1-202;
- 19 (iii) 25-1-1103;
- 20 (iv) 25-9-506;
- 21 (v) 25-9-804; and
- 22 (vi) 27-9-103;
- 23 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- 24 (f) financial institution taxes pursuant to Title 15, chapter 31, part 7;
- 25 (g) coal severance taxes allocated for county land planning pursuant to 15-35-108;
- 26 (h) all beer, liquor, and wine taxes pursuant to:
- 27 (i) 16-1-404;
- 28 (ii) 16-1-406; and
- 29 (iii) 16-1-411;
- 30 (i) late filing fees pursuant to 61-3-220;

- (j) title and registration fees pursuant to 61-3-203;
(k) veterans' cemetery license plate fees pursuant to 61-3-459;
(l) county personalized license plate fees pursuant to 61-3-406;
(m) special mobile equipment fees pursuant to 61-3-431;
(n) single movement permit fees pursuant to 61-4-310;
(o) state aeronautics fees pursuant to 67-3-101; and
(p) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,

chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) ~~Beginning with fiscal year 2002 and in each succeeding fiscal year, the~~ The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. ~~For fiscal year 2002, the growth rate is 3%. For fiscal year 2003, the growth rate is 3% for incorporated cities and towns, 1.64% for counties, and 2.3% for consolidated local governments. Beginning with calendar year 2002, by~~ By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

~~(i) Before applying the growth rate for fiscal year 2004 to determine the fiscal year 2004 entitlement share pool, the department shall add to the fiscal year 2003 entitlement share pool the fiscal year 2003 amount of revenue actually distributed to the county from the 25-cent marriage license fee in 50-15-301 and the probation and parole fee in 46-23-1031(2)(b).~~

~~(ii)~~ (i) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

1 (A) the last 4 calendar years for which the information has been published; and

2 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
3 subsection ~~(3)(a)(iii)(A)~~ (3)(a)(i)(A).

4 ~~(iii)(ii)~~ The department shall calculate the average annual growth rate of Montana personal income, as
5 published by the bureau of economic analysis of the United States department of commerce, for the following
6 periods:

7 (A) the last 4 calendar years for which the information has been published; and

8 (B) the 4 calendar years beginning with the year before the first year in the period referred to in
9 subsection ~~(3)(a)(iii)(A)~~ (3)(a)(i)(A).

10 (b) (i) ~~For fiscal year 2004 and subsequent fiscal years, the~~ The entitlement share pool growth rate for
11 the first year of the biennium must be the following percentage of the average of the growth rates calculated in
12 subsections ~~(3)(a)(iii)(B)~~ (3)(a)(i)(B) and ~~(3)(a)(iii)(B)~~ (3)(a)(ii)(B):

13 (A) for counties, 54%;

14 (B) for consolidated local governments, 62%; and

15 (C) for incorporated cities and towns, 70%.

16 (ii) The entitlement share pool growth rate for the second year of the biennium must be the following
17 percentage of the average of the growth rates calculated in subsections ~~(3)(a)(iii)(A)~~ (3)(a)(i)(A) and ~~(3)(a)(iii)(A)~~
18 (3)(a)(ii)(A):

19 (A) for counties, 54%;

20 (B) for consolidated local governments, 62%; and

21 (C) for incorporated cities and towns, 70%.

22 (4) As used in this section, "local government" means a county, a consolidated local government, an
23 incorporated city, and an incorporated town. A local government does not include a tax increment financing
24 district provided for in subsection (6). For purposes of calculating the base year component for a county or
25 consolidated local government, the department shall include the revenue listed in subsection (1) for all special
26 districts within the county or consolidated local government. The county or consolidated local government is
27 responsible for making an allocation from the county's or consolidated local government's share of the
28 entitlement share pool to each special district within the county or consolidated local government in a manner
29 that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

30 (5) (a) The entitlement share pools calculated in this section and the block grants provided for in

subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis beginning September 15, 2001.

(b) (i) ~~For fiscal year 2002, the growth amount is the difference between the fiscal year 2002 entitlement share pool and the base year entitlement share pool. For fiscal year 2002, a county may have a negative base year component. For fiscal year 2003 and each succeeding fiscal year, the~~ The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

(A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's

percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

~~(vi) For fiscal year 2002, an amount equal to the district court costs identified in subsection (2) must be added to each county government's distribution from the entitlement share pool.~~

~~——— (vii) For fiscal year 2002, an amount equal to the district court fees identified in subsection (1)(d) must be subtracted from each county government's distribution from the entitlement share pool.~~

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343

1 Silver Bow Butte - uptown 283,801

2 Yellowstone Billings 436,815

3 ~~(c) The entitlement share for industrial tax increment financing districts is as follows:~~

4 ~~—— (i) for fiscal years 2002 and 2003:~~

5 Missoula County Airport Industrial \$4,812

6 Silver Bow Ramsay Industrial 597,594;

7 ~~—— (ii) for fiscal years 2004 and 2005:~~

8 Missoula County Airport Industrial \$2,406

9 Silver Bow Ramsay Industrial 298,797; and

10 ~~—— (iii) \$0 for all succeeding fiscal years:~~

11 ~~—— (d) The entitlement share for industrial tax increment financing districts referred to in subsection (6)(c)~~

12 ~~may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a~~

13 ~~guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the~~

14 ~~tax increment financing industrial district:~~

15 ~~—— (e) One-half of the payments provided for in subsection (6)(c) must be made by July 30, and the other~~

16 ~~half must be made in December of each year:~~

17 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local

18 governments do not include revenue received from countywide transportation block grants or from countywide

19 retirement block grants.

20 ~~(8) The estimates for the base year entitlement share pool in subsection (1) must be calculated as if~~

21 ~~the fees in Chapter 515, Laws of 1999, were in effect for all of fiscal year 2001:~~

22 ~~(9)(8)~~ (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(p) is

23 significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss

24 from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local

25 governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of

26 revenue.

27 (b) For the purposes of subsection ~~(9)(a)~~ (8)(a), a significant reduction is a loss that causes the amount

28 of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

29 ~~(10)(9)~~ A three-fifths vote of each house is required to reduce the amount of the entitlement share

30 calculated pursuant to subsections (1) through (3).

1 ~~(11)~~(10) When there has been an underpayment of a local government's share of the entitlement share
2 pool, the department shall distribute the difference between the underpayment and the correct amount of the
3 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
4 government shall remit the overpaid amount to the department.

5 ~~(12)~~(11) A local government may appeal the department's estimation of the base year component, the
6 entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according
7 to the uniform dispute review procedure in 15-1-211.

8 ~~(13)~~(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency
9 by a local government in accordance with Title 17, chapter 4, part 1."
10

11 **Section 3.** Section 25-1-201, MCA, is amended to read:

12 **"25-1-201. Fees of clerk of district court.** (1) The clerk of district court shall collect the following fees:

13 (a) at the commencement of each action or proceeding, except a petition for dissolution of marriage,
14 from the plaintiff or petitioner, \$90; for filing a complaint in intervention, from the intervenor, \$80; for filing a
15 petition for dissolution of marriage, \$160; for filing a petition for legal separation, \$150; and for filing a petition
16 for a contested amendment of a final parenting plan, \$120;

17 (b) from each defendant or respondent, on appearance, \$60;

18 (c) on the entry of judgment, from the prevailing party, \$45;

19 (d) (i) except as provided in subsection (1)(d)(ii), for preparing copies of papers on file in the clerk's
20 office, \$1 a page for the first 10 pages of each file, for each request, and 50 cents for each additional page;

21 (ii) for a copy of a marriage license, \$5, and for a copy of a dissolution decree, \$10;

22 (e) for each certificate, with seal, \$2;

23 (f) for oath and jurat, with seal, \$1;

24 (g) for a search of court records, \$2 for each name for each year searched, for a period of up to 7 years,
25 and an additional \$1 for each name for any additional year searched;

26 (h) for filing and docketing a transcript of judgment or transcript of the docket from all other courts, the
27 fee for entry of judgment provided for in subsection (1)(c);

28 (i) for issuing an execution or order of sale on a foreclosure of a lien, \$5;

29 (j) for transmission of records or files or transfer of a case to another court, \$5;

30 (k) for filing and entering papers received by transfer from other courts, \$10;

(l) for issuing a marriage license, ~~\$30~~ \$50 ~~\$40~~;

(m) on the filing of an application for informal, formal, or supervised probate or for the appointment of a personal representative or the filing of a petition for the appointment of a guardian or conservator, from the applicant or petitioner, \$70, which includes the fee for filing a will for probate;

(n) on the filing of the items required in 72-4-303 by a domiciliary foreign personal representative of the estate of a nonresident decedent, \$55;

(o) for filing a declaration of marriage without solemnization, ~~\$30~~ \$50 ~~\$40~~;

(p) for filing a motion for substitution of a judge, \$100;

(q) for filing a petition for adoption, \$75.

(2) Except as provided in subsections (3) and (5) through (7), fees collected by the clerk of district court must:

~~— (a) prior to July 1, 2003, be forwarded to the department of revenue for deposit in the state general fund; and~~

~~— (b) after June 30, 2003, be deposited in the state general fund as specified by the supreme court administrator~~ AS SPECIFIED BY THE SUPREME COURT ADMINISTRATOR.

(3) (a) Of the fee for filing a petition for dissolution of marriage, \$5 must be deposited in the children's trust fund account established in 52-7-102, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714, and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(b) Of the fee for filing a petition for legal separation, \$5 must be deposited in the children's trust fund account established in 52-7-102 and \$30 must be deposited in the partner and family member assault intervention and treatment fund established in 40-15-110.

(4) If the moving party files a statement signed by the nonmoving party agreeing not to contest an amendment of a final parenting plan at the time the petition for amendment is filed, the clerk of district court may not collect from the moving party the fee for filing a petition for a contested amendment of a parenting plan under subsection (1)(a).

~~(5) Through June 30, 2003, the clerk of district court shall remit to the credit of the special revenue account established in 42-2-105 \$70 of the filing fee required in subsection (1)(q).~~

~~(6)~~(5) Of the fee for filing an action or proceeding, except a petition for dissolution of marriage, \$9 must be deposited in the civil legal assistance for indigent victims of domestic violence account established in 3-2-714.

(7)(6) The fees collected under subsections (1)(d), (1)(g), and (1)(j) must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(7) Of the fee for issuance of a marriage license and the fee for filing a declaration of marriage without solemnization, \$40 must be deposited in the state general fund and \$10 must be deposited in the county district court fund. If a district court fund does not exist, the fees must be deposited in the county general fund to be used for district court operations.

(8) Any filing fees, fines, penalties, or awards collected by the district court or district court clerk not otherwise specifically allocated must be deposited in the state general fund."

Section 4. Section 40-1-202, MCA, is amended to read:

"40-1-202. License issuance. When a marriage application has been completed and signed by both parties to a prospective marriage and at least one party has appeared before the clerk of the district court and paid the marriage license fee of ~~\$30 \$50~~ \$40, the clerk of the district court shall issue a license to marry and a marriage certificate form upon being furnished:

(1) satisfactory proof that each party to the marriage will have attained the age of 18 years at the time the marriage license is effective or will have attained the age of 16 years and has obtained judicial approval as provided in 40-1-213;

(2) satisfactory proof that the marriage is not prohibited; and

(3) a certificate of the results of any medical examination required by the laws of this state."

Section 5. Section 40-1-311, MCA, is amended to read:

"40-1-311. Declaration of marriage without solemnization. (1) Persons desiring to consummate a marriage by written declaration in this state without the solemnization provided for in 40-1-301 must, prior to executing the declaration, secure the medical certificate required by this chapter, which ~~shall~~ must be firmly attached to the declaration and ~~shall~~ must be filed by the clerk of the district court in the county where the contract was executed.

(2) A declaration of marriage must contain substantially the following:

(a) the names, ages, and residences of the parties;

(b) the fact of marriage;

1 (c) the name of father and maiden name of mother of both parties and address of each;

2 (d) a statement that both parties are legally competent to enter into the marriage contract.

3 (3) The declaration must be subscribed by the parties and attested by at least two witnesses and
4 formally acknowledged before the clerk of the district court of the county.

5 (4) The fee for filing a declaration is ~~\$30~~ \$50 \$40 and ~~shall~~ must be paid to the clerk at time of filing."

6
7 **Section 6.** Section 50-15-301, MCA, is amended to read:

8 **"50-15-301. Marriage certificates.** Before the 10th day of each month, each clerk of a district court
9 shall report marriage certificates filed during the preceding calendar month to the department. Reports must be
10 on forms and contain information prescribed by the department. ~~The applicant for a marriage license shall pay~~
11 ~~a recording fee of 25 cents to the officer authorized to issue the marriage license. Beginning July 1, 2003, the~~
12 ~~recording fee must be forwarded to the state for deposit in the state general fund."~~

13
14 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2005.

15 - END -